

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Cesar de la Garza,

Civil No. 06-2562 (RHK/JJG)

Plaintiff,

v.

**ORDER**

Jessica Symmes, Warden,

Defendant.

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Petitioner has filed Objections to the June 27, 2006 Report and Recommendation of Magistrate Judge Jeanne J. Graham. Judge Graham recommends that this action be dismissed without prejudice. A de novo review of the Report and Recommendation and Petitioner's Objections thereto has been conducted. Judge Graham's factual determinations and recommended disposition are fully supported by the record before her and applicable legal authority and will be adopted.

Accordingly, and upon all the files, records and proceedings herein,

**IT IS ORDERED:**

1. Petitioner's Objections (Doc. No. 9) are **OVERRULED**;
2. The Report and Recommendation (Doc. No. 7) is **ADOPTED**;
3. Petitioner's application to proceed in forma pauperis (Doc. No. 5) is **DENIED**;

4. Petitioner's Motion for Stay and Abeyance of Federal Habeas Corpus

Proceedings (Doc. No. 6) is **DENIED**; and

5. This action is **SUMMARILY DISMISSED WITHOUT PREJUDICE**.

Dated: July 27, 2006

s/Richard H. Kyle  
RICHARD H. KYLE  
United States District Judge